

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

BOARD MEETING

Wednesday, February 6, 1985

GEORGE N. GRAY  
CHAIRMAN

Baton Rouge, Louisiana

LOUISIANA WILDLIFE AND FISHERIES COMMISSION

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MINUTES OF MEETING OF  
LOUISIANA WILDLIFE AND FISHERIES COMMISSION

February 6, 1985

Chairman George N. Gray, presiding:

Members Present:

Dr. Jack Cappel  
Dr. Donald Hines  
Mr. Joe Palmisano  
Mr. Dale Vinet

The regular monthly meeting of the Louisiana Wildlife and Fisheries Commission was called to order by Chairman George Gray, on Wednesday, February 6, 1985 at 10:00 AM at the Quail Drive Office in Baton Rouge.

A roll call was taken.

A motion was made by Mr. Palmisano, seconded by Dr. Hines to approve the minutes of January 16, 1985.

Harry Schafer presented the Survey Section Report at Tuesday's meeting for the period of January 2-31, 1985. During that period field activity consisted of 124 surveys scheduled, 84 were unable to be done due to bad weather or fishermen unable to meet surveyor and one 15 year limitation where the fisherman refused to survey. Surveys that were completed consisted of 30 leases that were tied into the monument control system, six applications for new are, two 15 year limitation applications and one restake application. Office activity consisted of \$240,812.91 lease rental collected, \$10,267.20 survey fees collected, 16 tonnage licenses issued, 3 dredging licenses issued, 13 leases issued, 259 applications filed (213 renewals and 46 restakes).

Ray Montet presented the Monthly Enforcement Report for December, 1984.

Joe Herring presented suggestions of dates for the hunting seasons public hearings. Dates for these hearings were set for Tuesday, April 2, 1985 in Ruston, Wednesday, April 3, 1985 in Lafayette. These hearings will be at 7:00 PM. The meeting was also changed from Baton Rouge to Lafayette to Wednesday and Thursday, April 3-4, 1985. A hearing will also be held the night of the May meeting which will be Tuesday, April 30, 1985 at the Hilton Inn, Kenner. A motion was made by Don Hines, seconded by Joe Palmisano, and passed unanimously, to accept these dates for the public hearings.

A resolution for John James Audubon Day was presented to representatives of the Resource and Natural History Class of Mrs. Norma Stigall, Our Lady of Prompt Succor, Alexandria by Mr. George Gray.

(The full text of the resolution  
here is made a part of the record)

WHEREAS, April 26, 1985 is the 200th anniversary of the birth of John James Audubon, one of our country's earliest artist-naturalists; and

WHEREAS, Mr. Audubon was studying and painting birds and mammals at a time when very little was known and even less published about them in North America; and

WHEREAS, the field work and prodigious writings of Mr. Audubon added greatly to the scientific knowledge of birds and mammals of this country; and

WHEREAS, Mr. Audubon's paintings, or animal portraits, have given pleasure to many people, and have created a strong awareness of the natural history of this country, and even one large, national organization adopted his name as its own; and

WHEREAS, a significant number of Mr. Audubon's bird portraits (at least 76, and possibly 100) were done in Louisiana, and it is thought that the concept for Birds of America may have been developed while he was working in West Feliciana Parish; and

WHEREAS, it is fitting that the citizens of the State of Louisiana pay tribute to John James Audubon for his scientific contributions; now

THEREFORE BE IT RESOLVED, that the Louisiana Wildlife and Fisheries Commission does hereby proclaim April 26, 1985 "John James Audubon Day" in Louisiana; and

BE IT FURTHER RESOLVED, that the Louisiana Wildlife and Fisheries Commission does this day, on behalf of the Resource and Natural History Class of Mrs. Norma Stigall and all conservation minded citizens of the State of Louisiana, join with the Baton Rouge Audubon Society in urging the Honorable Ronald Reagan, President of the United States, to declare April 26, 1985, "John James Audubon Day" in the United States.

Corky Perret presented information on the Coastal and Marine Finfish Program. He gave some background starting with the early 70's. Three years of fresh water along the coast had detrimental effect on shrimp and other coastal species. This started the management of our popular finfish, primarily red fish and trout. The Department held five public hearings across the coast finalized with a summation hearing in New Orleans. A Task Force came up with an overview of finfish information. A Governor's Task Force was set up which was made up of recreational, commercial fishermen, people representing the Department, the Commission, restaurant people, consumers and so on. This group came up with a proposal for draft legislation. This was successful, for the most part, during the last session. The Coastal and Marine Finfish Section is funded from a \$5.00 recreational angling fee for saltwater anglers and an increase in commercial license fees and seller's license for commercial fishermen. The program has been in effect for four or five months. Gerald Adkins is the leader of the Section. He gave a brief report concerning the activities of the Section.

Greg Linscombe presented the trapping season extension information. He stated that we would like to continue to collect information and make a recommendation to the Commission by the 22nd of February for action. Mr. Butley Marler of Houma, a major fur dealer, recommended that there be no extension. Mr. Dupont from the Miami Corporation asked for an extension. He stated that they are interested in saving the land. Don Hines offered a motion that the Department make an extensive study of conditions in the coastal area of Louisiana concerning the overpopulation of nutria, muskrats, and so forth, property damage, and etc., and report to the Commission Chairman by February 22, 1985 and on that day by conference telephone this Commission make a final decision concerning extending the trapping season, seconded by Dale Vinet, and passed unanimously.

Ms. Virginia Van Sickle presented the revised shell lease provisions. She stated that the Department would like to make two sets of recommendations regarding our leases for the extraction of shell in the central coast and in the Lake Pontchartrain area. We propose that the provisions be implemented in the form of addenda. These leases were signed back in 1981 and 1982. The first of the revisions would decrease, if not eliminate, the Department's exposure from liability resulting from an accident and damage to property or personal injury resulting from shell dredging activities. The revision is very simply stated.

The proposed language, supplements Items 6 and 7 in the current lease. Regarding paragraph 6 and 7 of the lease the parties specifically understand that each lessee will defend indemnify and hold harmless the Department (lessor) for any claims, demands, liability, or causes of action arising out

of or in any way connected directly or indirectly with the particular lessee's taking of shells, even if such action is brought about solely or in part by negligence of the Department. Additionally, the provisions in paragraph 7 specifically covered this contractual undertaking of indemnity to the limits mentioned in said paragraph. Each lessee agrees to name lessor as an additional insured under its comprehensive liability insurance policy with respect to any claimed liability arising out of lessee's operations under the lease with the overall limits of three million dollars.

The language does place the Department and the Commission under the liability to insurance coverage of the lessee being the shell dredgers. We have met with them and we have agreement, we think, at least with the one company that is represented here today that they will sign this.

The second lease revision we propose would remedy an inconsistency that presently exists in Article 20 of the leases and this inconsistency surfaced during administrative review of our leases and shell dredging records in October and November of 1984, when our legal counsel observed that two of the three leases in effect contain the following language in the first sentence. "The Department specifically reserves the right to establish rules and regulations on dredging areas in the interest of living resources and suspend the removal of shells and/or other shell deposits...."

We wish to insert in the third lease "establish rules and regulations on dredging areas in the interest of living resources" and then leave the sentence to go on to say "and suspend the removal of shell and/or shell deposits from the above described beds by the lessees and their successors and assigns in the event that the dredging operations by lessees and their successors and assigns violate said regulations".

There are provisions in the lease that allow us to establish zones, etc. but this language clearly sets forth the Department's right to regulate in the interest of fish and wildlife resources.

Mr. Gene Weber of Radcliff Materials stated that he wanted the Commission to know that they accept this as an oversight, or typographical error, or whatever originally and have no problems with accepting this.

Joe Palmisano made a motion to accept the indemnity clause, seconded by Jack Cappel, and passed unanimously.

The second item is the addition of a sentence that was deleted in one of three contracts and that has to do with Item 20 and we have that resolution. Don Hines made a motion, seconded by Jack Cappel, and passed unanimously, to correct this.

The second type of recommendations that Ms. Van Sickle presented had to do with ten rules or restrictions that were imposed on the central coast lessees by the Commission in December 1982.

To Item 1 all we did was add a sentence requiring "Location of dredging shall be recorded on an hourly basis in Loran-C coordinates".

Item 2 remains the same.

Item 3, the original intent of this stipulation was to minimize the presence of mounds and impressions produced by dredging, by simply directing the discharge via pipe or drainage from a settling tank back into the dredged area. It has been pointed out to us and we agree that the intent of this is not really reflected as it should be in Article 3 or Item 3 as it is presently worded. We propose to modify the language in Article 3 to state in a very straight forward manner the intent of the provision and to provide us with the fathometer's recordings that our biologists in the field would like to continue to receive. The wording that we propose is as follows:

All effluents shall be directed back into the dredged area via discharge conduit. Dredged area shall be surveyed with a recording fathometer and copies of each depth profile shall be submitted to the Department of Wildlife and Fisheries on or before the 15th day of the succeeding month. Maximum depth along with vertical scale shall be indicated on each profile. Location of depth profiles shall be specified using precise Loran-C coordinates (i.e. reported to the nearest 0.1 of the line of position/T.D.).

To Item 4 all we did was add a date after the end of Exhibit A just to indicate that this is a more current map that will be used for enforcement purposes.

Item 5, we reworded to provide more specific instructions regarding the avoidance of land masses and exposed reefs. Dredging operations shall not be conducted within restricted areas as shown on the chart Exhibit A nor from 1500 feet or natural land masses or exposed reefs. Exposed reefs and natural land masses are defined as those features that are above the water surface at the datum listed as 0.0 feet mean lower low water on U. S. Department of Commerce, National Ocean Survey charts. Again, more specifically, describing the areas that are off limits to dredging.

Item 6 is unchanged.

Item 7 has two very minor changes. First we deleted the reference to the filling and leveling of dredge cuts as explained under Item 3. A phrase was added to the last sentence affirming our right to retrieve the Loran-C tapes from the dredges at any-time.

Item 8, we inserted the word "daily" in the first sentence which requires the recording of location of the dredges and we clarified the last sentence describing the procedure that they would use for submitting the weekly reports to the Department, they may either be hand delivered or mailed.

Item 9 is the same and Item 10 is the same.

Mr. Gray stated that these are basic changes to correct flaws in the manner in which was originally drafted. We've had difficulty with wording we have already corrected. It's just a manner of changing technicalities.

Harold Schoeffler from Lafayette spoke representing Save Our Coast. He is also Wetlands Chairman of the Delta Chapter of the Sierra Club. He stated that Item 3 is a meaningless regulation, that it is a regulation that has been used by the industry to defend itself in litigation and in their defense they have taken this regulation verbatim and implied that they are complying with it. And no such thing is occurring. He stated that the dredging industry, the dredgers have no provisions for directing discharge into those cuts, they have no direction on control of the discharge, the vacuum or pump water comes straight out of the barge in a pipe, whatever direction the barge turns is the direction the discharge will go. He then stated that if all the effluent is going to be discharged into the dredge cut some mechanism will have to be on the barges to actually direct the effluent. He recommended that Item 3 be dropped from the regulation.

Mr. Gene Weber of Radcliff Materials stated that we have over the past directed the dredged material back into the area. He explained how this is done. He said they have always held the intent of these regulations even with the wording of filling and leveling as being the intent to replace the sediments that are taken up with the shell and water back into its original place or as close as possible. And that intent historically has been as the Department of Natural Resources permit reads "so as not to cause navigational hazards". He said they have always recognized that and done their best to do just that.

Pete Juneau said that Mr. Weber explained exactly what was being carried on out there. The direction of the discharge goes into the cut that is being made. He recommended that this is the only way it can be done.



A recommendation was made to change the word "all" in Item 3 to "most" by Mr. Gray.

Don Puckett stated that it is certainly within the parameters of the Department to make the change. This would more accurately reflect the operation. The word "all" will be taken out of the regulation.

Harold Schoeffler had some question about the definition about exposed reefs. The Department of Natural Resources and the Corps of Engineers have defined exposed reefs as reefs extending above the mudline and not necessarily above the water. He stated that he would like to see Wildlife and Fisheries afford the same protection that the Corps of Engineers and the Department of Natural Resources have afforded exposed reefs. The Corps has granted a 1,000 foot protective zone around exposed reefs. Something will be worked out to enforce this.

Dale Vinet made a motion to accept these ten rules, seconded by Jack Cappel, and passed unanimously.

The June meeting was set for Tuesday and Wednesday, June 4th and 5th in Shreveport.

Mr. Gray adjourned the meeting.